

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2030

AN ACT

AMENDING SECTIONS 20-1095.02, 32-1101, 32-1121, 32-1122, 32-1123, 32-1132, 32-1136, 32-1137, 32-1139, 32-1152, 32-1154 AND 32-1165, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1095.02, Arizona Revised Statutes, is amended to  
3 read:

4 20-1095.02. Exemptions: definition

5 A. ~~The provisions of~~ This article, except for section 20-1095.09, ~~do~~  
6 DOES not apply to the following:

7 1. Warranties issued by manufacturers or sellers.

8 2. Service contract programs if a motor vehicle manufacturer has  
9 financial responsibility for performance.

10 3. Warranties and service contracts issued by a corporation other than  
11 a manufacturer or seller in connection with consumer products that are  
12 distributed by the corporation if the issuing corporation:

13 (a) Is an affiliate of a consumer products manufacturer.

14 (b) By March 1 of each year submits to the director an independently  
15 audited financial statement in which at least one officer of the issuing  
16 corporation attests and a certified public accountant certifies that the  
17 issuing corporation has and maintains a net worth in excess of one hundred  
18 million dollars. Any information, documents and copies that are obtained by  
19 or disclosed to the director or any other person pursuant to this subdivision  
20 are not available for public inspection, except that the director may use  
21 this information in any proceeding relating to this article.

22 4. A service company ~~which~~ THAT issues a service contract to persons  
23 other than a consumer.

24 5. A service company ~~which~~ THAT is in the business of selling or  
25 servicing any one of the following:

26 (a) Appliances or electronic equipment, or both.

27 (b) Residential heating, cooling or air conditioning systems.

28 (c) Mechanical equipment, other than motor vehicles or their  
29 components.

30 6. Any person licensed pursuant to title 32, chapter 10, or not  
31 required to be licensed because exempt pursuant to section 32-1121,  
32 subsection A, paragraph ~~13~~ 12.

33 B. The director may employ independent examiners pursuant to section  
34 20-156 to review and analyze the financial statements that are submitted  
35 pursuant to subsection A, paragraph 3 of this section.

36 C. A motor vehicle dealer who is licensed under title 28, chapter 10,  
37 who sells a service contract program approved by the director pursuant to  
38 section 20-1095.06 and who notifies the director pursuant to section  
39 20-1095.07 shall be exempt from the remainder of the requirements of this  
40 article.

41 D. For the purposes of this section, "affiliate" means a corporation  
42 that is owned or controlled by or is under common control with a  
43 manufacturer.

1           Sec. 2. Section 32-1101, Arizona Revised Statutes, is amended to read:

2           32-1101. Definitions

3           A. In this chapter, unless the context otherwise requires:

4           1. "Advertisement" means any written or oral publication,  
5 dissemination, solicitation or circulation ~~which~~ THAT is intended to directly  
6 or indirectly induce any person to enter into an agreement for contracting  
7 services with a contractor, including business cards and telephone directory  
8 display advertisements.

9           2. "Commercial contractor" is synonymous with the terms "commercial  
10 builder", "industrial builder" and "public works builder" and means any  
11 person, firm, partnership, corporation, association or other organization, or  
12 any combination, that, for compensation, undertakes to or offers to undertake  
13 to, purports to have the capacity to undertake to, submits a bid to, does  
14 himself or by or through others, or directly or indirectly supervises others,  
15 except within residential property lines, to:

16           (a) Construct, alter, repair, add to, subtract from, improve, move,  
17 wreck or demolish any building, highway, road, railroad, excavation or other  
18 structure, project, development or improvement, or to do any part thereof,  
19 including the erection of scaffolding or any other structure or work in  
20 connection with the construction.

21           (b) Connect such structure or improvements to utility service lines  
22 and metering devices and the sewer line.

23           (c) Provide mechanical or structural service for any such structure or  
24 improvements.

25           3. "COMPENSATION" MEANS PAYMENT IN MONIES, GOODS OR SERVICES FOR WORK  
26 PERFORMED AND INCLUDES RENTAL OR SALES RECEIPTS OR ANTICIPATED RENTAL OR  
27 SALES RECEIPTS.

28           ~~3-~~ 4. "Contractor" is synonymous with the term "builder" and means  
29 any person, firm, partnership, corporation, association or other  
30 organization, or ~~a~~ ANY combination of any of them, that, for compensation,  
31 undertakes to or offers to undertake to, purports to have the capacity to  
32 undertake to, submits a bid or responds to a request for qualification or a  
33 request for proposals for construction services to, does himself or by or  
34 through others, or directly or indirectly supervises others to:

35           (a) Construct, alter, repair, add to, subtract from, improve, move,  
36 wreck or demolish any building, highway, road, railroad, excavation or other  
37 structure, project, development or improvement, or to do any part thereof,  
38 including the erection of scaffolding or any other structure or work in  
39 connection with the construction.

40           (b) Connect such structure or improvements to utility service lines  
41 and metering devices and the sewer line.

42           (c) Provide mechanical or structural service for any such structure or  
43 improvements.

1       ~~4.~~ 5. "Dual licensed contractor" is synonymous with the term  
2 "commercial and residential builder" and means any person, firm, partnership,  
3 corporation, association or other organization, or any combination, that, **FOR**  
4 **COMPENSATION**, undertakes to or offers to undertake to, purports to have the  
5 capacity to undertake to, submits a bid to, does himself or by or through  
6 others, or directly or indirectly supervises others under a single license on  
7 commercial or residential property to:

8       (a) Construct, alter, repair, add to, subtract from, improve, move,  
9 wreck or demolish any building, excavation or other structure  
10 or improvement, including any appurtenances, or to do any part thereof.

11       (b) Connect such structure or improvements to utility service lines  
12 and metering devices and the sewer line.

13       (c) Provide mechanical or structural service for any such structure or  
14 improvements.

15       ~~5.~~ 6. "Person" means an applicant, an individual, a member of a  
16 limited liability company, a qualifying party, any partner of a partnership  
17 or limited liability partnership or any officer, director, qualifying party,  
18 trustee of a trust, beneficiary of a trust or owner of at least twenty-five  
19 per cent of the stock or beneficial interest of a corporation.

20       ~~6.~~ 7. "Registrar" means the registrar of contractors.

21       ~~7.~~ 8. "Residential contractor" is synonymous with the term  
22 "residential builder" and means any person, firm, partnership, corporation,  
23 association or other organization, or ~~a~~ **ANY** combination of any of them,  
24 that, **FOR COMPENSATION**, undertakes to or offers to undertake to, purports to  
25 have the capacity to undertake to, submits a bid to, or does himself or by or  
26 through others, within residential property lines:

27       (a) Construct, alter, repair, add to, subtract from, improve, move,  
28 wreck or demolish any residential structure, such as houses, townhouses,  
29 condominiums or cooperative units. Residential structures also include  
30 apartment complexes of four units or less and any appurtenances on or within  
31 residential property lines.

32       (b) Connect such residential structure to utility service lines,  
33 metering devices or sewer lines.

34       (c) Provide mechanical or structural service for any such residential  
35 structure.

36       B. "Contractor" includes subcontractors, specialty contractors, floor  
37 covering contractors, landscape contractors, other than gardeners, and  
38 consultants representing themselves as having the ability to supervise or  
39 manage a construction project for the benefit of the property owner including  
40 the hiring and firing of specialty contractors, the scheduling of work on the  
41 project and the selection and purchasing of construction material.

42       C. For the purposes of this chapter, ~~"residential contractor"~~ does  
43 not include an owner making improvements pursuant to section 32-1121,  
44 subsection A, paragraph ~~5~~ 4.

1 D. Only contractors as defined in this section are licensed and  
2 regulated by this chapter.

3 Sec. 3. Section 32-1121, Arizona Revised Statutes, is amended to read:  
4 32-1121. Persons not required to be licensed; penalties

5 A. This chapter shall not be construed to apply to:

6 1. An authorized representative of the United States government, this  
7 state or any county, incorporated city or town, reclamation district,  
8 irrigation district or other municipality or political subdivision of this  
9 state.

10 ~~2. Trustees of an express trust that is not formed for the purpose of~~  
11 ~~conducting business as a contractor or officers of a court, if they are~~  
12 ~~acting within the terms of their trust or office.~~

13 ~~3.~~ 2. Public utilities operating under regulation of the corporation  
14 commission or construction, repair or operation incidental to discovering or  
15 producing petroleum or gas, or the drilling, testing, abandoning or other  
16 operation of a petroleum or gas well, if performed by an owner or lessee.

17 ~~4.~~ 3. Any materialman, manufacturer or retailer ~~furnishing~~ WHO  
18 FURNISHES finished products, materials or articles of merchandise AND who  
19 ~~does not install or attach such items or installs or~~ attaches such items if  
20 the total value of the sales contract or transaction involving such items and  
21 the cost of the installation or attachment of such items to a structure does  
22 not exceed one thousand dollars, including labor, materials and all other  
23 items, but excluding any electrical fixture or appliance that was designed by  
24 the manufacturer, that is unaltered, unchanged or unmodified by any person,  
25 that can be plugged into a common household electrical outlet utilizing a two  
26 pronged or three pronged electrical connector and that does not use any other  
27 form of energy, including natural gas, propane or other petroleum or gaseous  
28 fuel, to operate or is attached by a nail, screw or other fastening device to  
29 the frame or foundation of any residential structure. The materialman,  
30 manufacturer or retailer shall inform the purchaser that the installation may  
31 also be performed by a licensed contractor whose name and address the  
32 purchaser may request.

33 ~~5.~~ 4. Owners of property who improve such property or who build or  
34 improve structures or appurtenances on such property and who do the work  
35 themselves, with their own employees or with duly licensed contractors, if  
36 the structure, group of structures or appurtenances, including the  
37 improvements thereto, are intended for occupancy solely by the owner and are  
38 not intended for occupancy by members of the public as the owner's employees  
39 or business visitors and the structures or appurtenances are not intended for  
40 sale or for rent. In all actions brought under this chapter, proof of the  
41 sale or rent or the offering for sale or rent of any such structure by the  
42 owner-builder within one year after completion or issuance of a certificate  
43 of occupancy is prima facie evidence that such project was undertaken for the  
44 purpose of sale or rent. For the purposes of this paragraph, "sale" or  
45 "rent" includes any arrangement by which the owner receives compensation in

1 money, provisions, chattels or labor from the occupancy or the transfer of  
2 the property or the structures on the property.

3 ~~6-~~ 5. Owners of property who are acting as developers and who build  
4 structures or appurtenances to structures on their property for the purpose  
5 of sale or rent and who contract for such a project with a general contractor  
6 licensed pursuant to this chapter and owners of property who are acting as  
7 developers, who improve structures or appurtenances to structures on their  
8 property for the purpose of sale or rent and who contract for such a project  
9 with a general contractor or specialty contractors licensed pursuant to this  
10 chapter. To qualify for the exemption under this paragraph, the licensed  
11 contractors' names and license numbers shall be included in all sales  
12 documents.

13 ~~7-~~ 6. Architects or engineers who are engaging in their professional  
14 practice as defined in chapter 1 of this title and who hire or offer to hire  
15 the services of a contractor for preconstruction activities relating to  
16 investigation and discovery including:

17 (a) Subsurface utility location and designation services.

18 (b) Potholing.

19 (c) Drilling for any of the following:

20 (i) Soil samples.

21 (ii) Rock samples.

22 (iii) Pavement samples.

23 (d) Locating existing features of a building or structure including  
24 existing electrical, mechanical, plumbing and structural members.

25 ~~8-~~ 7. A person licensed, certified or registered pursuant to chapter  
26 22 of this title or a person working under the direct supervision of a person  
27 certified or qualified pursuant to chapter 22 of this title to the extent the  
28 person is engaged in structural pest control.

29 ~~9-~~ 8. The sale or installation of finished products, materials or  
30 articles of merchandise ~~which~~ THAT are not fabricated into and do not become  
31 a permanent fixed part of the structure. This exemption does not apply if a  
32 local building permit is required, if the total price of the finished  
33 product, material or article of merchandise, including labor but excluding  
34 any electrical fixture or appliance that was designed by the manufacturer,  
35 that is unaltered, unchanged or unmodified by any person, that can be plugged  
36 into a common household electrical outlet utilizing a two pronged or three  
37 pronged electrical connector and that does not use any other form of energy,  
38 including natural gas, propane or other petroleum or gaseous fuel, to operate  
39 or is attached by a nail, screw or other fastening device to the frame or  
40 foundation of any residential structure, is more than one thousand dollars or  
41 if the removal of the finished product, material or article of merchandise  
42 causes damage to the structure or renders the structure unfit for its  
43 intended use.

1       ~~10-~~ 9. Employees of the owners of condominiums, townhouses,  
2 cooperative units or apartment complexes of four units or less or the owners'  
3 management agent or employees of the management agent repairing or  
4 maintaining structures owned by them.

5       ~~11-~~ 10. Any person who engages in the activities regulated by this  
6 chapter, as an employee of an exempt property owner or as an employee with  
7 wages as the person's sole compensation.

8       ~~12-~~ 11. A surety company or companies ~~which~~ THAT are authorized to  
9 transact business in this state and ~~which~~ THAT undertake to complete a  
10 contract on which they issued a performance or completion bond, provided all  
11 construction work is performed by duly licensed contractors.

12       ~~13-~~ 12. Insurance companies ~~which~~ THAT are authorized to transact  
13 business in this state and ~~which~~ THAT undertake to perform repairs resulting  
14 from casualty losses pursuant to the provisions of a policy, provided all  
15 construction work is performed by duly licensed contractors.

16       ~~14-~~ 13. Any person other than a licensed contractor engaging in any  
17 work or operation on one undertaking or project by one or more contracts, for  
18 which the aggregate contract price, including labor, materials and all other  
19 items, but excluding any electrical fixture or appliance that was designed by  
20 the manufacturer, that is unaltered, unchanged or unmodified by any person,  
21 that can be plugged into a common household electrical outlet utilizing a two  
22 pronged or three pronged electrical connector and that does not use any other  
23 form of energy, including natural gas, propane or other petroleum or gaseous  
24 fuel, to operate or is attached by a nail, screw or other fastening device to  
25 the frame or foundation of any residential structure, is less than one  
26 thousand dollars. The work or operations ~~which~~ THAT are exempt under this  
27 paragraph shall be of a casual or minor nature. This exemption does not  
28 apply:

29       (a) In any case in which the performance of the work requires a local  
30 building permit.

31       (b) In any case in which the work or construction is only a part of a  
32 larger or major operation, whether undertaken by the same or a different  
33 contractor, or in which a division of the operation is made in contracts of  
34 amounts less than one thousand dollars, excluding any electrical fixture or  
35 appliance that was designed by the manufacturer, that is unaltered, unchanged  
36 or unmodified by any person, that can be plugged into a common household  
37 electrical outlet utilizing a two pronged or three pronged electrical  
38 connector and that does not use any other form of energy, including natural  
39 gas, propane or other petroleum or gaseous fuel, to operate or is attached by  
40 a nail, screw or other fastening device to the frame or foundation of any  
41 residential structure, for the purpose of evasion of this chapter or  
42 otherwise.

43       (c) To a person who utilizes any form of advertising to the public in  
44 which the person's unlicensed status is not disclosed by including the words  
45 "not a licensed contractor" in the advertisement.

1       ~~15-~~ 14. A person who is licensed, certified or registered pursuant to  
2 title 41, chapter 16 and who is not otherwise required to be licensed under  
3 this chapter or an employee of such person.

4       ~~16-~~ 15. A person who functions as a gardener by performing lawn,  
5 garden, shrub and tree maintenance.

6       B. A person who is licensed to perform work in a particular trade  
7 pursuant to this chapter shall not be required to obtain and maintain a  
8 separate license for mechanical or structural service work performed within  
9 the scope of such trade by such person.

10       C. Any person who does not have an exemption from licensure pursuant  
11 to subsection A, paragraph ~~14~~ 13, subdivision (c) of this section is subject  
12 to prosecution for a violation of section 44-1522. The attorney general may  
13 investigate the act or practice and take appropriate action pursuant to title  
14 44, chapter 10, article 7.

15       Sec. 4. Section 32-1122, Arizona Revised Statutes, is amended to read:  
16       32-1122. Qualifications for license

17       A. A contractor's license shall be issued only by act of the registrar  
18 of contractors. The registrar shall:

19       1. Classify and qualify applicants for a license.

20       2. If necessary, change the license classification of a licensee in  
21 the case of a title reclassification, with or without a bond rider for the  
22 purpose of continuing liability on the bond.

23       3. Conduct investigations the registrar deems necessary.

24       4. Establish written examinations if deemed necessary to protect the  
25 health and safety of the public.

26       B. To obtain or renew a license under this chapter, the applicant  
27 shall:

28       1. Submit to the registrar of contractors a verified application on  
29 forms that are prescribed by the registrar of contractors and that contain  
30 the following information and shall advise the registrar of any change in the  
31 information within thirty days:

32       (a) A designation of the classification of license that is sought by  
33 the applicant.

34       (b) If the applicant is an individual, the applicant's name and  
35 address.

36       (c) If the applicant is a partnership, the names and addresses of all  
37 partners with a designation of any limited partners.

38       (d) If the applicant is a corporation, an association or any other  
39 organization, the names and addresses of the president, vice-president, if  
40 any, secretary and treasurer or the names and addresses of the functional  
41 equivalent of these officers, the directors and the owners of twenty-five per  
42 cent or more of the stock or beneficial interest.

43       (e) The name and address of the qualifying party.

44       (f) If the applicant is a corporation, evidence that the corporation  
45 is in good standing with the corporation commission.



1 (g) The address or location of the applicant's place of business and  
2 the mailing address if it is different from the applicant's place of  
3 business.

4 (h) The applicant's current privilege license number issued pursuant  
5 to section 42-5005.

6 (i) Proof that the applicant has complied with the statutes or rules  
7 governing workers' compensation insurance.

8 2. Submit the appropriate bond and fee required under this chapter.

9 C. To obtain a contractor's license under this chapter other than a  
10 residential contractor's license, the applicant shall submit a detailed  
11 statement of current financial condition containing information required by  
12 the registrar of contractors on a form furnished by or acceptable to the  
13 registrar of contractors. Notwithstanding any other law, a swimming pool  
14 contractor shall also submit a detailed statement of current financial  
15 condition as required by this subsection.

16 D. To obtain, ~~HOLD~~ or renew a license under this chapter, each person  
17 shall be of good character and reputation. Lack of good character and  
18 reputation may be established by showing that a person has engaged in  
19 contracting without a license or committed any act that, if committed or done  
20 by any licensed contractor, would be grounds for suspension or revocation of  
21 a contractor's license or by showing that the person was named on a  
22 contractor's license that was suspended or revoked in another state.

23 E. To obtain a license under this chapter, a person shall not have had  
24 a license refused or revoked, within one year before the person's  
25 application, or shall not have engaged in the contracting business, nor shall  
26 the person have submitted a bid without first having been licensed within one  
27 year before the person's application, nor shall a person act as a contractor  
28 between the filing of the application and actual issuance of the  
29 license. The registrar may find any of those actions or circumstances to be  
30 excusable if there was reasonable doubt as to the need for licensure or the  
31 actions of the applicant did not result in an unremedied hardship or danger  
32 or loss to the public. A person who has been convicted of contracting  
33 without a license is not eligible to obtain a license under this chapter for  
34 one year after the date of the last conviction.

35 F. Before a license is issued, the qualifying party shall:

36 1. Have had a minimum of ~~four~~ ~~SIX~~ years' practical or management trade  
37 experience, at least ~~two~~ ~~THREE~~ of which must have been within the last ten  
38 years, dealing specifically with the type of construction, or its equivalent,  
39 for which the applicant is applying for a license. Technical training in an  
40 accredited college or university or in a manufacturer's accredited training  
41 program may be substituted for a portion of such experience, but in no case  
42 may credited technical training exceed two years of the required ~~four~~ ~~SIX~~  
43 years' experience. The registrar of contractors may reduce the ~~four~~ ~~SIX~~  
44 years' practical or management experience requirement if in the registrar's  
45 opinion it has been conclusively shown by custom and usage in the particular

1 industry or craft involved that the ~~four~~ SIX year requirement is  
2 excessive. The registrar may waive the work experience documentation and  
3 verification or the examination requirement if the records reflect that the  
4 qualifying party is currently or has previously been a qualifying party for a  
5 licensee in this state in the same classification within the preceding five  
6 years.

7 2. Successfully show, by written examination taken not more than two  
8 years before application, if required, qualification in the kind of work for  
9 which the applicant proposes to contract, the applicant's general knowledge  
10 of the building, safety, health and lien laws of the state, administrative  
11 principles of the contracting business and the rules adopted by the registrar  
12 of contractors pursuant to this chapter, demonstrate knowledge and  
13 understanding of construction plans and specifications applicable to the  
14 particular industry or craft and of the standards of construction work and  
15 techniques and practices in the particular industry or craft and demonstrate  
16 a general understanding of other related construction trades, in addition to  
17 any other matters as may be deemed appropriate by the registrar to determine  
18 that the qualifying party meets the requirements of this chapter. The  
19 registrar shall maintain multiple versions of examinations for each type of  
20 license that requires an examination.

21 G. No license shall be issued to a minor, to any partnership in which  
22 one of the partners is a minor or to any corporation in which a corporate  
23 officer is a minor.

24 H. Before receiving, renewing and holding a license pursuant to this  
25 chapter, the registrar may require a license applicant or licensee to submit  
26 to the registrar a full set of fingerprints and the fees required in section  
27 41-1750. The registrar shall submit the fingerprints and fees to the  
28 department of public safety for the purpose of obtaining a state and federal  
29 criminal records check pursuant to section 41-1750 and Public Law  
30 92-544. The department of public safety may exchange this fingerprint data  
31 with the federal bureau of investigation.

32 Sec. 5. Section 32-1123, Arizona Revised Statutes, is amended to read:

33 32-1123. Unlicensed contractors; contract bidding; license  
34 denial; exemptions; warning

35 A. Except as provided in subsection D of this section, if an entity  
36 that is not licensed pursuant to this chapter bids on a contract for a  
37 project with an aggregate worth of more than one thousand dollars, excluding  
38 any electrical fixture or appliance that was designed by the manufacturer,  
39 that is unaltered, unchanged or unmodified by any person, that can be plugged  
40 into a common household electrical outlet utilizing a two pronged or three  
41 pronged electrical connector and that does not use any other form of energy,  
42 including natural gas, propane or other petroleum or gaseous fuel, to operate  
43 or is attached by a nail, screw or other fastening device to the frame or  
44 foundation of any residential structure, **FOR ONE YEAR AFTER THE DATE OF THE**

1 BID the registrar shall not issue ~~the entity~~ a license pursuant to this  
2 chapter ~~for one year after the date of the bid~~ TO ANY OF THE FOLLOWING:

3 1. THE ENTITY.

4 2. A PERSON WHO:

5 (a) IS A MEMBER OF THE ENTITY, A QUALIFYING PARTY OF THE ENTITY, A  
6 PARTNER OF THE ENTITY, ANY DIRECTOR OR OFFICER OF THE ENTITY, A TRUSTEE OF  
7 THE ENTITY IF THE ENTITY IS A TRUST OR A BENEFICIARY OF THE ENTITY IF THE  
8 ENTITY IS A TRUST.

9 (b) OWNS AT LEAST TWENTY-FIVE PER CENT OF THE STOCK OR BENEFICIAL  
10 INTEREST OF THE ENTITY.

11 3. AN ENTITY WITH COMMON MEMBERSHIP, QUALIFYING PARTIES, PARTNERS,  
12 OFFICERS, DIRECTORS, TRUSTEES, BENEFICIARIES OR OWNERSHIP AS THE ENTITY IF  
13 THE OWNERSHIP CONSISTS OF AT LEAST TWENTY-FIVE PER CENT OF THE STOCK OR  
14 BENEFICIAL INTEREST OF EACH ENTITY.

15 B. This section does not apply to an entity that bids on a contract  
16 for either of the following:

17 1. A department of transportation project.

18 2. A project that is subject to the federal acquisition regulation,  
19 title 48 Code of Federal Regulations, including the department of defense  
20 federal acquisition regulation.

21 C. This section does not affect the licensing exemptions prescribed in  
22 section 32-1121.

23 D. If an entity bids on a contract for a project pursuant to  
24 subsection A of this section and the project has an aggregate worth of more  
25 than one thousand dollars, excluding any electrical fixture or appliance that  
26 was designed by the manufacturer, that is unaltered, unchanged or unmodified  
27 by any person, that can be plugged into a common household electrical outlet  
28 utilizing a two pronged or three pronged electrical connector and that does  
29 not use any other form of energy, including natural gas, propane or other  
30 petroleum or gaseous fuel, to operate or is attached by a nail, screw or  
31 other fastening device to the frame or foundation of any residential  
32 structure, and less than twenty thousand dollars, the registrar shall issue  
33 the entity a written warning relating to the unlicensed activity if the  
34 registrar has not previously issued the entity a warning.

35 Sec. 6. Section 32-1132, Arizona Revised Statutes, is amended to read:

36 32-1132. Residential contractors' recovery fund

37 A. The residential contractors' recovery fund is established, to be  
38 administered by the registrar, from which any person injured by an act,  
39 representation, transaction or conduct of a residential contractor licensed  
40 pursuant to this chapter that is in violation of this chapter or the rules  
41 adopted pursuant to this chapter may be awarded in the county where the  
42 violation occurred an amount of not more than thirty thousand dollars for  
43 damages sustained by the act, representation, transaction or conduct. An  
44 award from the fund is limited to the actual damages suffered by the claimant  
45 as a direct result of the contractor's violation but shall not exceed an

1 amount necessary to complete or repair a residential structure or  
2 appurtenance within residential property lines. Actual damages shall not be  
3 established by bids supplied by or the value of work performed by a person or  
4 entity that is not licensed pursuant to this chapter and that is required to  
5 be licensed pursuant to this chapter. If the claimant has paid a deposit or  
6 down payment and no actual work is performed or materials are delivered, the  
7 award of actual damages shall not exceed the exact dollar amount of the  
8 deposit or down payment plus interest at the rate of ten per cent a year from  
9 the date the deposit or down payment is made or not more than thirty thousand  
10 dollars, whichever is less. Interest shall not be paid from the fund on any  
11 other awards under this chapter unless ordered by a court of competent  
12 jurisdiction. An award from the fund shall not be available to persons  
13 injured by an act, representation, transaction or conduct of a residential  
14 contractor who was not licensed pursuant to this chapter or whose license was  
15 in an inactive status, expired, cancelled, revoked, suspended or not issued  
16 at the time of the contract. No more than the maximum individual award from  
17 the fund shall be made on any individual residence or to any injured person.  
18 Notwithstanding any other provision of law, monies in the residential  
19 contractors' recovery fund shall not be directly awarded for attorney fees or  
20 costs except in contested cases appealed to the superior court.

21 B. ANY PERSON RECEIVING AN AWARD FROM THE FUND UNDER THIS ARTICLE IS  
22 DEEMED TO HAVE ASSIGNED TO THE REGISTRAR THE PERSON'S RIGHTS FOR RECOVERY  
23 AGAINST THE RESPONSIBLE RESIDENTIAL CONTRACTOR LICENSED PURSUANT TO THIS  
24 CHAPTER TO THE EXTENT OF THE PERSON'S AWARD FROM THE FUND.

25 ~~B.~~ C. Except as provided in section 32-1152, subsection C, every  
26 person making application for a contractor's license or for renewal of a  
27 contractor's license to engage in residential contracting shall pay an  
28 assessment of not more than six hundred dollars during the biennial license  
29 period for deposit in the fund. In the event that the registrar does not  
30 issue the license, this assessment shall be returned to the applicant.

31 Sec. 7. Section 32-1136, Arizona Revised Statutes, is amended to read:  
32 32-1136. Statute of limitations; recovery from fund

33 A. ~~An action for a judgment which may subsequently result in an order~~  
34 ~~for collection~~ A CLAIM FOR RECOVERY from the fund shall not be commenced  
35 later than two years ~~from~~ AFTER the date ~~of the commission of the act by the~~  
36 ~~contractor that is the cause of the injury or from the date of occupancy.~~  
37 ~~When any injured person commences action for a judgment which may result in~~  
38 ~~collection from the fund, the injured person shall notify the registrar in~~  
39 ~~writing to this effect at the time of the commencement of the action. The~~  
40 ~~registrar may at any time intervene in and defend any such action~~ THAT THE  
41 RESPONSIBLE RESIDENTIAL CONTRACTOR'S LICENSE WAS REVOKED, SUSPENDED OR PLACED  
42 ON DISCIPLINARY PROBATION.

43 ~~B. When any injured person recovers a valid judgment against any~~  
44 ~~residential contractor for such act, representation, transaction or conduct~~  
45 ~~which is in violation of this chapter or the rules adopted pursuant to this~~

~~chapter, the injured person may on twenty days' written notice to the registrar apply to the court for an order directing payment out of the fund, of the amount unpaid on the judgment, subject to the limitations stated in this article. If the injured person failed to give notice to the registrar at the time of commencement of the action as required by subsection A of this section, the court may direct payment out of the fund upon receipt of a consent to payment signed on behalf of the registrar. If the injured person has given notice to the registrar as required by subsection A of this section, the court may direct payment out of the fund either on receipt of a consent to payment signed on behalf of the registrar or, in the absence of any written consent, after the notice period required by subsection B of this section. If the court receives written objections by the registrar, the court shall not direct payment from the fund without affording the registrar a reasonable opportunity to present and support his objections.~~

B. IF A RESIDENTIAL CONTRACTOR'S LICENSE HAS BEEN REVOKED, SUSPENDED OR PLACED ON DISCIPLINARY PROBATION AS A RESULT OF A VIOLATION OF THIS CHAPTER, THE REGISTRAR MAY ORDER PAYMENT FROM THE RESIDENTIAL CONTRACTORS' RECOVERY FUND AS PRESCRIBED IN THIS ARTICLE TO COMPENSATE AN ELIGIBLE CLAIMANT FOR ACTUAL DAMAGES CAUSED BY A RESIDENTIAL CONTRACTOR'S VIOLATION OF THIS CHAPTER. IF THE CONTRACTOR CONTESTS THE AMOUNT OR PROPRIETY OF THE PAYMENT, THE CONTRACTOR SHALL RESPOND WITHIN TEN DAYS AFTER THE DATE OF SERVICE BY REQUESTING A HEARING TO DETERMINE THE AMOUNT OR PROPRIETY OF THE PAYMENT. FAILURE BY THE CONTRACTOR TO RESPOND IN WRITING WITHIN TEN DAYS AFTER THE DATE OF SERVICE IS A WAIVER BY THE CONTRACTOR OF THE RIGHT TO CONTEST THE AMOUNT CLAIMED OR TO BE AWARDED. SERVICE MAY BE MADE BY PERSONAL SERVICE TO THE CONTRACTOR OR BY MAILING A COPY OF THE NOTICE BY REGISTERED OR CERTIFIED MAIL WITH POSTAGE PREPAID TO THE CONTRACTOR'S LATEST ADDRESS OF RECORD ON FILE IN THE REGISTRAR'S OFFICE. IF SERVICE IS MADE BY REGISTERED OR CERTIFIED MAIL, IT IS EFFECTIVE FIVE DAYS AFTER THE NOTICE IS MAILED. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, THE CONTRACTOR OR INJURED PERSON MAY SEEK JUDICIAL REVIEW OF THE REGISTRAR'S FINAL AWARD PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

C. The injured person shall not be the spouse of the residential contractor or the personal representative of the spouse of the residential contractor.

~~D. The court shall proceed on an application in a summary manner and, on the hearing, the~~ injured person is required to show that he:

~~1. Has given notice as required by subsections A and B of this section.~~

~~2. Has obtained a judgment which has become final, as provided in subsection B of this section, stating the amount and the amount owing at the date of the application.~~

1       ~~3-~~ 1. Has proceeded against any existing bond covering the  
2 residential contractor and has not collected upon such bond an amount of  
3 thirty thousand dollars or more, except when the award is made pursuant to  
4 subsection E of this section or section 32-1154.

5       ~~4-~~ 2. Is not aware of any personal or real property or other assets  
6 of the debtor which can be applied in satisfaction of the judgment.

7       E. ~~The court shall make an order directed to the registrar requiring~~  
8 ~~payment from the fund of whatever sum it finds to be payable on the claim, in~~  
9 ~~accordance with this section, if the court is satisfied on the hearing of the~~  
10 ~~truth of all matters required to be shown by the injured person by subsection~~  
11 ~~D of this section. The recovery limits established under this article apply~~  
12 ~~to all judgments awarded after September 1, 2002.~~ If the injured person has  
13 recovered a portion of his loss from sources other than the fund, the  
14 registrar, ~~if the award is made pursuant to section 32-1154, or the court~~  
15 shall deduct the amount recovered from other sources from the amount of  
16 actual damages suffered pursuant to section 32-1132, subsection A and direct  
17 the difference, not to exceed thirty thousand dollars, to be paid from the  
18 fund.

19       ~~F. On receipt of a certified copy of the order specified in subsection~~  
20 ~~E of this section, the registrar may authorize payment from the residential~~  
21 ~~contractors' recovery fund even if an appeal has been instituted but not~~  
22 ~~completed.~~

23       Sec. 8. Section 32-1137, Arizona Revised Statutes, is amended to read:

24       32-1137. Notice of authorized payment to injured person

25       On authorization of payment from the residential contractors' recovery  
26 fund, the registrar shall notify the injured person that:

27       1. The amount authorized for payment is subject to repayment by the  
28 recipient if the ~~judgment of the court is finally~~ ORDER OF THE REGISTRAR IS  
29 reversed.

30       2. It is the responsibility of the recipient to respond to an appeal  
31 from the ~~judgment~~ ORDER OF THE REGISTRAR.

32       3. On appeal from the ~~judgment~~ ORDER, postponement of acceptance by  
33 the injured person of the amount authorized for payment does not operate as a  
34 waiver of any rights of the injured person.

35       Sec. 9. Section 32-1139, Arizona Revised Statutes, is amended to read:

36       32-1139. Liability of fund for each residential contractor's  
37 license; suspension of license; repayment

38       A. The liability of the fund shall not exceed two hundred thousand  
39 dollars for any one residential contractor's license. If claims against the  
40 fund on behalf of any one residential contractor's license exceed two hundred  
41 thousand dollars, the claims shall be paid in order of the date of entry of  
42 the order of the registrar ~~or court~~, and the registrar ~~or a court~~ ON entering  
43 an order for payment after the sum of two hundred thousand dollars has been  
44 paid from the fund shall modify the order indicating that no further recovery  
45 from the fund shall be allowed.

1 B. If any amount is paid from the fund in settlement of a claim  
2 arising from the act, representation, transaction or conduct of a residential  
3 contractor, the license of the contractor shall be automatically suspended  
4 by operation of law until the amount paid from the fund is repaid in full,  
5 plus interest at the rate of ten per cent a year. Any person who is or was,  
6 at the time of the act or omission, named on a license that has been  
7 suspended because of a payment from the recovery fund is not eligible to  
8 receive a new license or retain another existing license that also shall be  
9 suspended by operation of law, nor shall any suspended license be  
10 reactivated, until the amount paid from the fund is repaid as provided in  
11 this subsection.

12 Sec. 10. Section 32-1152, Arizona Revised Statutes, is amended to  
13 read:

14 32-1152. Bonds

15 A. Before granting an original contractor's license, the registrar  
16 shall require of the applicant a surety bond in a form acceptable to the  
17 registrar or a cash deposit as provided in this section. AT THE TIME OF  
18 FILING AN ORIGINAL APPLICATION, THE APPLICANT SHALL PROVIDE TO THE REGISTRAR  
19 AN ESTIMATE OF THE APPLICANT'S VOLUME OF WORK FOR EACH OF THE TWO ENSUING  
20 TWELVE MONTH PERIODS AND THE BASIS ON WHICH THE ESTIMATE WAS DETERMINED. No  
21 contractor's license may be renewed unless the applicant's surety bond or  
22 cash deposit is in full force and effect. AT THE TIME OF FILING A RENEWAL  
23 APPLICATION, THE APPLICANT SHALL PROVIDE TO THE REGISTRAR AN ESTIMATE OF THE  
24 APPLICANT'S VOLUME OF WORK FOR EACH OF THE TWO ENSUING TWELVE MONTH PERIODS,  
25 NEITHER OF WHICH SHALL BE LESS THAN THE AVERAGE OF THE APPLICANT'S ACTUAL  
26 VOLUME OF WORK FOR THE PRECEDING TWO TWELVE MONTH PERIODS UNLESS THE  
27 APPLICANT ALSO FILES AN EXPLANATION ACCEPTABLE TO THE REGISTRAR FOR THE  
28 LESSER AMOUNTS. AN ESTIMATE OF AN APPLICANT'S VOLUME OF WORK IS NOT REQUIRED  
29 IF THE MAXIMUM BOND AMOUNT THAT IS SET BY RULE ADOPTED BY THE REGISTRAR IS  
30 PROVIDED AT THE TIME OF ORIGINAL LICENSE APPLICATION OR RENEWAL.

31 B. The bonds, or the cash deposit as provided in this section, shall  
32 be in the name of the licensee in amounts fixed by the registrar with the  
33 following schedules after giving due consideration to the ESTIMATES OF THE  
34 volume of work AS PRESCRIBED IN SUBSECTION A and the classification  
35 contemplated by the applicant:

36 1. General commercial building contractors and subclassifications of  
37 general commercial contractors shall furnish a surety bond or cash deposit in  
38 an amount ~~which~~ THAT shall be determined as follows:

39 (a) If the estimated annual volume of construction work of the  
40 applicant is ten million dollars or more, the applicant shall furnish a  
41 surety bond or cash deposit of not less than fifty thousand dollars or more  
42 than one hundred thousand dollars.

43 (b) If the estimated annual volume of construction work of the  
44 applicant is more than five million dollars and less than ten million  
45 dollars, the applicant shall furnish a surety bond or cash deposit of not



1 less than thirty-five thousand dollars or more than seventy-five thousand  
2 dollars.

3 (c) If the estimated annual volume of construction work of the  
4 applicant is more than one million dollars and less than five million  
5 dollars, the applicant shall furnish a surety bond or cash deposit of not  
6 less than fifteen thousand dollars or more than fifty thousand dollars.

7 (d) If the estimated annual volume of construction work of the  
8 applicant is more than five hundred thousand dollars and less than one  
9 million dollars, the applicant shall furnish a surety bond or cash deposit of  
10 not less than ten thousand dollars or more than twenty-five thousand dollars.

11 (e) If the estimated annual volume of construction work of the  
12 applicant is more than one hundred fifty thousand dollars and less than five  
13 hundred thousand dollars, the applicant shall furnish a surety bond or cash  
14 deposit of not less than five thousand dollars or more than fifteen thousand  
15 dollars.

16 (f) If the estimated annual volume of construction work of the  
17 applicant is less than one hundred fifty thousand dollars, the applicant  
18 shall furnish a surety bond or cash deposit of five thousand dollars.

19 2. Specialty commercial contractors shall furnish a surety bond or  
20 cash deposit in an amount ~~which~~ THAT shall be determined as follows:

21 (a) If the estimated annual volume of construction work of the  
22 applicant is ten million dollars or more, the applicant shall furnish a  
23 surety bond or cash deposit of not less than thirty-seven thousand five  
24 hundred dollars or more than fifty thousand dollars.

25 (b) If the estimated annual volume of construction work of the  
26 applicant is more than five million dollars and less than ten million  
27 dollars, the applicant shall furnish a surety bond or cash deposit of not  
28 less than seventeen thousand five hundred dollars or more than thirty-seven  
29 thousand five hundred dollars.

30 (c) If the estimated annual volume of construction work of the  
31 applicant is more than one million dollars and less than five million  
32 dollars, the applicant shall furnish a surety bond or cash deposit of not  
33 less than seven thousand five hundred dollars or more than twenty-five  
34 thousand dollars.

35 (d) If the estimated annual volume of construction work of the  
36 applicant is more than five hundred thousand dollars and less than one  
37 million dollars, the applicant shall furnish a surety bond or cash deposit of  
38 not less than five thousand dollars or more than seventeen thousand five  
39 hundred dollars.

40 (e) If the estimated annual volume of construction work of the  
41 applicant is more than one hundred fifty thousand dollars and less than five  
42 hundred thousand dollars, the applicant shall furnish a surety bond or cash  
43 deposit of not less than two thousand five hundred dollars or more than seven  
44 thousand five hundred dollars.



1 (f) If the estimated annual volume of construction work of the  
2 applicant is less than one hundred fifty thousand dollars, the applicant  
3 shall furnish a surety bond or cash deposit of two thousand five hundred  
4 dollars.

5 3. The total amount of the surety bond or cash deposit required of a  
6 licensee who holds more than one license under paragraphs 1 and 2 of this  
7 subsection shall be the sum of the surety bond or cash deposit required for  
8 each license based on the estimated annual volume of construction work of the  
9 applicant allocated to and performed under each license. The applicant at  
10 ~~his~~ THE APPLICANT'S option may post a single surety bond or cash deposit,  
11 which shall be the sum of the bonds or deposits determined under this  
12 subsection for all such licenses.

13 4. General dual licensed contractors and subclassifications of general  
14 dual licensed contractors shall furnish a single surety bond or cash  
15 deposit with amounts for each classification of license that are determined  
16 based on the volume of commercial work as determined under paragraph 1 of  
17 this subsection and the volume of residential work as determined under  
18 paragraph 5 of this subsection. Liability under the bond or cash deposit  
19 shall be limited to the amount established for each commercial or residential  
20 license and is subject to the limitations and requirements set forth in  
21 subsection E of this section.

22 5. General residential contractors and subclassifications of general  
23 residential contractors shall furnish a surety bond or cash deposit in an  
24 amount of not more than ~~fifteen~~ THIRTY thousand dollars and not less than  
25 five thousand dollars.

26 6. Specialty dual licensed contractors shall furnish a single surety  
27 bond or cash deposit with amounts for each classification of license that are  
28 determined based on the volume of commercial work as determined under  
29 paragraph 2 of this subsection and the volume of residential work as  
30 determined under paragraph 7 of this subsection. Liability under the bond or  
31 cash deposit shall be limited to the amount established for each commercial  
32 or residential license and is subject to the limitations and requirements set  
33 forth in subsection E of this section.

34 7. Specialty residential contractors shall furnish a surety bond or  
35 cash deposit in an amount of not more than ~~seven~~ FIFTEEN thousand ~~five~~  
36 ~~hundred~~ dollars and not less than one thousand dollars.

37 8. Dual licensed swimming pool contractors and residential swimming  
38 pool general contractors shall furnish a surety bond or cash deposit in the  
39 same amounts based on the volume of work as determined under paragraph 1 of  
40 this subsection for a general commercial contractor.

41 C. Dual licensed contractors and residential contractors shall also  
42 either:

1           1. Furnish an additional surety bond or cash deposit in the amount of  
2 two hundred thousand dollars solely for actual damages suffered by persons  
3 injured as described in section 32-1131. This bond shall be subject to the  
4 limitations on the amounts that may be awarded to individual claimants as  
5 established in section 32-1132.

6           2. Participate in the residential contractors' recovery fund and pay  
7 the assessment prescribed by section 32-1132.

8           D. The surety bonds shall be executed by the contractor as principal  
9 with a corporation duly authorized to transact surety business in this  
10 state. Evidence of a surety bond shall be submitted to the registrar in a  
11 form acceptable to the registrar. The contractor may in the alternative  
12 establish a cash deposit in the amount of the bond with the state treasurer  
13 in accordance with rules adopted by the registrar. Such cash bond monies  
14 shall be deposited, pursuant to sections 35-146 and 35-147, in the  
15 contractors' cash bond fund. The state treasurer shall invest and divest  
16 monies in the fund as provided by section 35-313, and monies earned from  
17 investment shall be credited to the state general fund. Such cash deposits  
18 may be withdrawn, if there are no outstanding claims against them, two years  
19 after the termination of the license in connection with which the cash is  
20 deposited. The cash deposit may be withdrawn two years after the filing of a  
21 commercial surety bond as a replacement to the cash deposit.

22           E. The bonds or deposit required by subsection B of this section shall  
23 be for the benefit of and shall be subject to claims by the registrar of  
24 contractors for failure to pay any sum required pursuant to this  
25 chapter. The bond or deposit required by subsection B, paragraphs 1, 2 and 3  
26 of this section is for the benefit of and subject to claims by a licensee  
27 under this chapter or a lessee, owner or co-owner of nonresidential real  
28 property including, but not limited to, a tenant in common or joint tenant,  
29 or their successors in interest, who has a direct contract with the licensee  
30 against whose bond or deposit the claim is made and who is damaged by the  
31 failure of the licensee to build or improve a structure or appurtenance on  
32 that real property at the time the work was performed in a manner not in  
33 compliance with the requirements of any building or construction code  
34 applicable to the construction work under the laws of this state or any  
35 political subdivision, or if no such code was applicable, in accordance with  
36 the standards of construction work approved by the registrar. The  
37 residential bond or deposit required by subsection B, paragraphs 4 through 8  
38 of this section is for the benefit of and subject to claims by any person  
39 furnishing labor, materials or construction equipment on a rental basis used  
40 in the direct performance of a construction contract involving a residential  
41 structure or by persons injured as defined in section 32-1131. The bond or  
42 deposit required by subsection C, paragraph 1 of this section is for the  
43 benefit of and is subject to claims only by persons injured as described in  
44 section 32-1131. The person seeking recovery from the bond or cash deposit  
45 shall maintain an action at law against the contractor if claiming against

1 the cash deposit or against the contractor and surety if claiming against the  
2 surety bond. If the person seeking recovery is required to give the notice  
3 pursuant to section 33-992.01, ~~he~~ THE PERSON is entitled to seek recovery  
4 only if ~~he~~ THE PERSON has given such notice and has made proof of  
5 service. The surety bond or cash deposit shall be subject to claims until  
6 the full amount thereof is exhausted. The court may award reasonable  
7 ~~attorney's~~ ATTORNEY fees in a judgment against a contractor's surety bond or  
8 cash deposit. No suit may be commenced on the bond or for satisfaction from  
9 the cash deposit after the expiration of two years following the commission  
10 of the act or delivery of goods or rendering of services on which the suit is  
11 based, except that time for purposes of claims for fraud shall be measured as  
12 provided in section 12-543. The surety bond or cash deposit shall be  
13 continuous in form and shall be conditioned so that the total aggregate  
14 liability of the surety or cash deposit for all claims, including reasonable  
15 ~~attorney's~~ ATTORNEY fees, shall be limited to the face amount of the surety  
16 bond or cash deposit irrespective of the number of years the bond or cash  
17 deposit is in force. If the corporate surety desires to make payment without  
18 awaiting court action, the amount of any bond filed in compliance with this  
19 chapter shall be reduced to the extent of any payment or payments made by the  
20 corporate surety in good faith thereunder. Any such payments shall be based  
21 on priority of written claims received by the corporate surety prior to court  
22 action. If more than one cash deposit exists, the judgment against the  
23 contractor shall state which cash deposit shall be used to satisfy the  
24 judgment. A certified copy of the judgment shall then be filed with the  
25 registrar, and such judgment shall specify that it may be satisfied from the  
26 contractor's cash deposit. Priority for payment shall be based upon the time  
27 of filing with the registrar. Upon receipt of a certified copy of the  
28 judgment, the registrar may authorize payment from the cash deposit of the  
29 amount claimed or of whatever lesser amount remains on file. In any action  
30 against a cash deposit, the claimant, at the time of filing suit, may notify  
31 the registrar in writing of the action against the cash deposit, but shall  
32 not name as a defendant in the action the registrar, the treasurer, ~~or~~ the  
33 state. Failure to so notify the registrar at the time of filing suit may  
34 result in the cash deposit being withdrawn by the licensee ~~prior to~~ BEFORE  
35 judgment pursuant to subsection D of this section.

36 F. When a corporate surety cancels a bond, the surety shall not less  
37 than thirty days ~~prior to~~ BEFORE the effective date of the cancellation give  
38 the principal and the registrar a written notice of the cancellation. Notice  
39 to the principal shall be by certified mail in a sealed envelope with postage  
40 fully prepaid. Proof of notice to the principal shall be made available to  
41 the registrar on request. On reduction or depletion of the cash deposit, the  
42 registrar shall immediately notify the licensee of ~~said~~ THE reduction or  
43 depletion and that the licensee must replenish the cash deposit or furnish a  
44 surety bond on or before thirty days from the date of ~~said~~ THE reduction or  
45 depletion or the contractor's license shall be suspended on the thirtieth day

1 without further notice or hearing. Notice to the contractor shall be by  
2 certified mail in a sealed envelope with postage fully prepaid ~~thereon~~,  
3 addressed to the contractor's latest address of record in the registrar's  
4 office. The contractor's license shall be suspended by operation of law on  
5 the date the bond is canceled or thirty days from the date of reduction or  
6 depletion of the cash deposit unless a replacement bond or cash deposit is on  
7 file with the registrar.

8 G. The registrar and the state treasurer shall have no personal  
9 liability for the performance of duties relating to the bonds, cash deposits,  
10 certificates of deposit, investment certificates or share accounts required  
11 or permitted by this chapter as long as such duties are performed in good  
12 faith.

13 H. In the following instances the registrar, after a hearing, may  
14 require, as a condition precedent to issuance, renewal, continuation or  
15 removal of suspension of a license, a surety bond or cash deposit in an  
16 amount and duration to be fixed by the registrar based upon the seriousness  
17 of the violations, which shall be not more than ten times the amount required  
18 by subsection B of this section:

19 1. When a license of either the applicant or the qualifying party has  
20 been suspended or revoked or a surety bond or cash deposit requirement has  
21 been increased under section 32-1154 previously as the result of disciplinary  
22 action for a violation of this chapter.

23 2. When either the applicant or qualifying party was an officer,  
24 member, partner or qualifying party for a licensee at any time during which  
25 cause for disciplinary action occurred resulting in suspension or revocation  
26 of such licensee's license and such applicant or qualifying party had  
27 knowledge of or participated in the act or omission ~~which~~ THAT was the cause  
28 of such disciplinary action for a violation of this chapter.

29 3. The bonds required by this subsection shall be in addition to any  
30 other bond or cash deposit required by this chapter or any other bond  
31 required of a contractor by an owner or any other contracting party on any  
32 contract undertaken by ~~him~~ THE CONTRACTOR pursuant to the authority of such  
33 license.

34 Sec. 11. Section 32-1154, Arizona Revised Statutes, is amended to  
35 read:

36 32-1154. Grounds for suspension or revocation of license;  
37 continuing jurisdiction; civil penalty

38 A. The holder of a license or any person listed on a license pursuant  
39 to this chapter shall not commit any of the following acts or omissions:

40 1. Abandonment of a contract or refusal to perform after submitting a  
41 bid on work without legal excuse for the abandonment or refusal.

1           2. Departure from or disregard of plans or specifications or any  
2 building codes of the state or any political subdivision of the state in any  
3 material respect ~~which~~ THAT is prejudicial to another without consent of the  
4 owner or the owner's duly authorized representative and without the consent  
5 of the person entitled to have the particular construction project or  
6 operation completed in accordance with such plans and specifications and  
7 code.

8           3. Violation of any rule adopted by the registrar.

9           4. Failure to comply with the statutes or rules governing social  
10 security, workers' compensation or unemployment insurance.

11           5. Failure to pay income taxes, withholding taxes or any tax imposed  
12 by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the  
13 licensed business.

14           6. Misrepresentation of a material fact by the applicant in obtaining  
15 a license.

16           7. The doing of a wrongful or fraudulent act by the licensee as a  
17 contractor resulting in another person being substantially injured.

18           8. Conviction of a felony.

19           9. Failure in a material respect by the licensee to complete a  
20 construction project or operation for the price stated in the contract, or in  
21 any modification of the contract.

22           10. Aiding or abetting a licensed or unlicensed person to evade this  
23 chapter, knowingly or recklessly combining or conspiring with a licensed or  
24 unlicensed person, allowing one's license to be used by a licensed or  
25 unlicensed person or acting as agent, partner, associate or otherwise of a  
26 licensed or unlicensed person with intent to evade this chapter.

27           11. Failure by a licensee or agent or official of a licensee to pay  
28 monies in excess of seven hundred fifty dollars when due for materials or  
29 services rendered in connection with the licensee's operations as a  
30 contractor when the licensee has the capacity to pay or, if the licensee  
31 lacks the capacity to pay, when the licensee has received sufficient monies  
32 as payment for the particular construction work project or operation for  
33 which the services or materials were rendered or purchased.

34           12. Failure of a contractor to comply with any safety or labor laws or  
35 codes of the federal government, state or political subdivisions of the  
36 state.

37           13. Failure in any material respect to comply with this chapter.

38           14. Knowingly entering into a contract with a contractor for work to be  
39 performed for which a license is required with a person not duly licensed in  
40 the required classification.

41           15. Acting in the capacity of a contractor under any license issued  
42 under this chapter in a name other than as set forth upon the license.

1       16. False, misleading or deceptive advertising whereby any member of  
2 the public may be misled and injured.

3       17. Knowingly contracting beyond the scope of the license or licenses  
4 of the licensee.

5       18. Contracting or offering to contract or submitting a bid while the  
6 license is under suspension or while the license is on inactive status.

7       19. Failure to notify the registrar in writing within a period of  
8 fifteen days of any disassociation of the person who qualified for the  
9 license. Such licensee shall have sixty days from the date of such  
10 disassociation to qualify through another person.

11       20. Subsequent discovery of facts which if known at the time of  
12 issuance of a license or the renewal of a license would have been grounds to  
13 deny the issuance or renewal of a license.

14       21. Having a person named on the license who is named on any other  
15 license in this state or in another state which is under suspension or  
16 revocation unless the prior revocation was based solely on a violation of  
17 this paragraph.

18       22. Continuing a new single family residential construction project  
19 with actual knowledge that a pretreatment wood-destroying pests or organisms  
20 application was either:

21           (a) Not performed at the required location.

22           (b) Performed in a manner inconsistent with label requirements, state  
23 law or rules.

24       23. Failure to take appropriate corrective action to comply with this  
25 chapter or with rules adopted pursuant to this chapter without valid  
26 justification within a reasonable period of time after receiving a written  
27 directive from the registrar. The written directive shall set forth the time  
28 within which the contractor is to complete the remedial action. The time  
29 permitted for compliance shall not be less than fifteen days from the date of  
30 issuance of the directive. A license shall not be revoked or suspended nor  
31 shall any other penalty be imposed for a violation of this paragraph until  
32 after a hearing has been held.

33       24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or  
34 otherwise intimidate any contractor or materialman from serving a preliminary  
35 notice pursuant to section 33-992.01.

36       B. The registrar may on the registrar's own motion, and shall on the  
37 written complaint of any person, investigate the acts of any contractor  
38 within this state and may temporarily suspend, with or without imposition of  
39 specific conditions in addition to increased surety bond or cash deposit  
40 requirements, or permanently revoke any or all licenses issued under this  
41 chapter if the holder of the license issued pursuant to this chapter is  
42 guilty of or commits any of the acts or omissions set forth in subsection A  
43 of this section.

1 C. The expiration, cancellation, suspension or revocation of a license  
2 by operation of law or by decision and order of the registrar or a court of  
3 law or the voluntary surrender of a license by a licensee shall not deprive  
4 the registrar of jurisdiction to proceed with any investigation of or action  
5 or disciplinary proceeding against such licensee, or to render a decision  
6 suspending or revoking such a license, or denying the renewal or right of  
7 renewal of such license.

8 D. The registrar may impose a civil penalty of not to exceed five  
9 hundred dollars on a contractor for each violation of subsection A, paragraph  
10 23 of this section. Civil penalties collected pursuant to this subsection  
11 shall be deposited in the residential contractors' recovery fund. The  
12 failure by the licensee to pay any civil penalty imposed under this  
13 subsection results in the automatic revocation of the license thirty days  
14 after the effective date of the order providing for the civil penalty. No  
15 future license may be issued to an entity consisting of a person associated  
16 with the contractor, as defined in section 32-1101, subsection A, paragraph  
17 ~~5- 6~~, unless payment of any outstanding civil penalty is tendered.

18 E. The registrar shall impose a civil penalty of not to exceed one  
19 thousand dollars on a contractor for each violation of subsection A,  
20 paragraph 18 of this section. Civil penalties collected pursuant to this  
21 subsection shall be deposited in the residential contractors' recovery  
22 fund. The failure by the licensee to pay any civil penalty imposed under  
23 this subsection results in the automatic permanent revocation of the license  
24 thirty days after the effective date of the order providing for the civil  
25 penalty. No future license may be issued to an entity consisting of a person  
26 associated with the contractor, as defined in section 32-1101, subsection A,  
27 paragraph ~~5- 6~~, unless payment of any outstanding civil penalty is tendered.

28 ~~F. Notwithstanding any other provisions in this chapter, if a~~  
29 ~~contractor's license has been revoked or has been suspended as a result of an~~  
30 ~~order to remedy a violation of this chapter, and the contractor refuses or is~~  
31 ~~unable to comply with the order of the registrar to remedy the violation, the~~  
32 ~~registrar may order payment from the residential contractors' recovery fund~~  
33 ~~to remedy the violation. The registrar shall serve the contractor with a~~  
34 ~~notice setting forth the amount claimed or to be awarded. If the contractor~~  
35 ~~contests the amount or propriety of the payment, the contractor shall respond~~  
36 ~~within ten days of the date of service by requesting a hearing to determine~~  
37 ~~the amount or propriety of the payment. Failure by the contractor to respond~~  
38 ~~in writing within ten days of the date of service shall be deemed a waiver by~~  
39 ~~the contractor of the right to contest the amount claimed or to be awarded.~~  
40 ~~Service may be made by personal service to the contractor or by mailing a~~  
41 ~~copy of the notice by registered mail with postage prepaid to the~~  
42 ~~contractor's latest address of record on file in the registrar's office. If~~  
43 ~~service is made by registered mail, it is effective five days after the~~  
44 ~~notice is mailed. Except as provided in section 41-1092.08, subsection H,~~

~~the contractor or injured person may seek judicial review of the registrar's final award pursuant to title 12, chapter 7, article 6.~~

Sec. 12. Section 32-1165, Arizona Revised Statutes, is amended to read:

32-1165. Advertising: effect of: classification

Except as authorized by section 32-1121, subsection A, paragraph ~~14~~ 13, subdivision (c), it is a class 1 misdemeanor for any person to advertise that ~~he~~ THE PERSON is able to perform any service or contract for compensation subject to regulation by the registrar under the terms of this chapter unless a license under the terms of this chapter is first obtained regardless of whether ~~his~~ THE PERSON'S operations as a contractor are otherwise exempt.

Sec. 13. Effective date

Section 32-1152, Arizona Revised Statutes, as amended by this act, is effective from and after December 31, 2011.